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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,793	10/16/2003	Eros Nanni	P/2528-12	7936

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EXAMINER

MACPHERSON, MEOGHAN E

ART UNIT PAPER NUMBER

3732

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

110

Office Action Summary	Application No. 10/686,793	Applicant(s) NANNI ET AL.	
	Examiner Meoghan E. MacPherson	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) 2 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on January 6, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3,4, 8-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fregoso'110 (US Patent No. 6,611,110) in view of Scott et al (US Patent No. 5,549,634).

Fregoso'110 discloses a polymerizing lamp 10 for polymerizing dental compounds, the lamp comprising optical means 36, logic control means (Figure 2), and a supporting member 12 for supporting the optical means and the logic control means (col. 1, lines 63-67; col. 2, lines 10-24, 28-46, 50-67; col. 3, lines 10-34, 40-43, 53-57; col. 5, lines 1-26; see Figures 1 and 2). Fregoso'110 discloses that the supporting member comprises two bodies (see Figure 1). Fregoso'110 also discloses light source comprising at least one LED 22 for emitting blue light in the wavelength range of 400 nm to 540 nm, an optical coupling device 24 interposed between the light source and an output optical fiber, and a battery 14 for electrically powering the polymerizing lamp (col. 2, lines 12-24; col. 3, line 66-col. 4 line 1; col. 4, lines 15-17; see Figure 1). However, Fregoso'110 does not disclose a connecting means, a joint means, or the axi of the bodies.

Art Unit: 3732

Scott et al teaches an instrument having a supporting member comprising two distinct bodies 17,13 with respective longitudinal axes 19,15 that are substantially parallel to each other when the bodies are in the first of two operating positions (col. 3, lines 24-28; see Figure 2). The respective longitudinal axes form an angle other than zero degrees, however, when in the second of two operating positions (col. 3, lines 35-43). Scott et al also teaches that each of the axes forms a further angle α of other than zero degrees with a further axis (see Figure 3). Scott et al teaches a connecting means 71, which connects the first body to the second body (see Figure 3). Scott et al also teaches a seat 43 with its own longitudinal axis in one of the bodies and a shank 59 in the second body, where the shank is inserted inside the seat, connecting in a rotary and axially sliding manner (col. 4, lines 6-9; see Figures 4 and 5). This connection defines the joint means 33 (col. 3, lines 41-43; see Figure 2, 3, and 6). The two bodies comprise respective end faces 39, 55 facing each other and perpendicular to the longitudinal axis of the seat (see Figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the polymerizing lamp of Fregoso' 110 to include the teachings of Scott et al to create a polymerizing lamp that is easily manipulated from an aligned position to an angularly displaced position for improved manipulation of the lamp by the user.

Regarding claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to house the optical means in the first body of the supporting member and the logic control means in the second body of the supporting member as opposed to the disclosed arrangement of housing both in the first body and the

Art Unit: 3732

power means (battery) in the second body, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the light source comprise of an organic LED since the examiner takes Official Notice of the equivalence of LED's and organic LED's for their use in the lighting and electronic art and the selection of any of these known equivalents would be within the level of ordinary skill in the art.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fregoso' 110 in view of Scott et al as applied to claim 3 above, and further in view of Lynch et al (US Patent No. 2,503,281). Fregoso' 110 in view of Scott et al discloses the claimed invention that shows the limitations as described above; however Fregoso' 110 in view of Scott et al does not disclose a retaining means.

Lynch et al teaches a retaining means comprising of two recesses 20 formed on the first face and at least one tooth 19 formed on the second face (col. 2, line 19, 26-29; see Figure 2). The tooth is movable to and from a retaining position where the tooth engages a recess and an elastic thrust means 21 acts on the tooth to keep it normally in the retaining position (col. 2, lines 29-46; see Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the polymerizing lamp of Fregoso' 110 in view of Scott et al to include the teachings of Lynch et al to create a swivel joint that is more durable in use, will allow the shank and the seat to remain integral, and will more effectively retain the two bodies in the desired operating position.

Art Unit: 3732

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fregoso'110 in view of Scott et al as applied to claim 1 above, and further in view of Bianchetti et al (US Patent 6,793,490). Fregoso'110 in view of Scott et al discloses the claimed invention that shows the limitations as described above; however Fregoso'110 in view of Scott et al does not disclose an electric connecting means.

Bianchetti et al teaches a polymerization lamp with an electric connecting means 8 for connecting the lamp to a dental unit (col. 3, lines 57-66; col. 4, lines 2-11, 32-34; see Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the polymerizing lamp of Fregoso'110 in view of Scott et al to include the teachings of Bianchetti et al to create a polymerization lamp that was connected to the dental unit as an alternative to the portable lamp in efforts to reduce the possibility of accidental loss or damage from dropping the polymerization lamp.

Response to Amendment

6. Applicant's remarks have been fully considered but they are deemed moot in view of the new ground(s) of rejection.

7. Applicant's arguments, see page 6, paragraph 2, with respect to the specification have been fully considered and are persuasive. The objection of the specification has been withdrawn.

Applicant's arguments, see page 6, paragraphs 3 and 4, with respect to the objection of claims 6 and 10 have been fully considered and are persuasive. The objection to claims 6 and 10 has been withdrawn.

Art Unit: 3732

Applicant's arguments, see page 6, paragraphs 6 and 7, with respect to the 35 U.S.C 112, Second Paragraph rejection of claim 4 has been fully considered and are persuasive. The 35 U.S.C 112, Second Paragraph rejection to claim 4 has been withdrawn.

Applicant's arguments, see page 8, paragraphs 2,3, and 5, with respect to the cancellation of claims 2 and 7 have been fully considered and are persuasive. The 35 U.S.C 103(a) rejections to claims 2 and 7 have been withdrawn.

8. In response to applicant's argument that Scott et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Scott et al a swivel apparatus for a surgical instrument to provide the ability to swivel the motor 17 of the instrument relative to the fluid conduit 13 (see Figure 2), thus allowing the instrument to be easily manipulated by the surgeon into an advantageous angular arrangement (col. 1, lines 15-18, 27-30, 35-37; col. 1, line 54-col. 2, line 5; col. 2, lines 36-42). The swivel arrangement of Scott et al solves a similar problem of the current application, providing an easily manipulated instrument which is moved from an aligned position where the motor axis and fluid conduit axis are aligned (where the first and second bodies axis are aligned in a first operating position), to an angularly displaced position in which the motor axis and the fluid conduit axis intersect and a selected angle (where the first and second bodies axis form an angle other than zero when in this second operating position).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

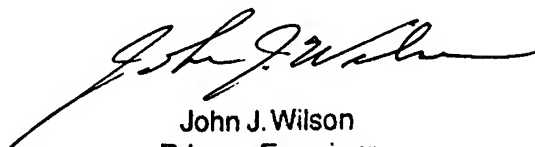
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meaghan E. MacPherson whose telephone number is (571)-272-5565. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Meoghan E. MacPherson



John J. Wilson
Primary Examiner